

APPLICANTS:
Robert & Cheryl Roark

REQUEST: A variance pursuant to
Section 267-34C to allow an addition to connect
the house and garage within the required side
yard setback

HEARING DATE: October 13, 2004

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5442

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Robert & Cheryl Roark

LOCATION: 2828 Forge Hill Road, Lands of Kirkwood, Bel Air
Tax Map: 34 / Grid: 1E / Parcel: 0010 / Lot: 2
Third Election District

ZONING: AG / Agricultural

REQUEST: A variance pursuant to Section 267-34C, Table II, of the Harford County Code to allow an addition to connect the house and garage, making the principal structure within the required 40 foot side yard setback (28 feet proposed), in the AG District

TESTIMONY AND EVIDENCE OF RECORD:

Cheryl Roark, Applicant, testified that her family desires to connect their house to a free-standing garage. The garage itself, which was built in 1998, is approximately 28 feet from the side yard lot line. By connecting the house to the garage, the garage would become part of the principal dwelling, which then requires a 40 foot side yard setback. The garage, accordingly, cannot be connected without the requested variance.

The Applicants desire to construct the addition to provide shelter when moving to and from the garage, and also to provide a new location for the family laundry facility.

The Applicant testified that because of the location of the existing well in the front of the house and the septic reserve to the rear of the house, it is very difficult to construct additional living space in either one of those two areas. The right side of the house would also present difficulties because of the existing slope, which would require significant grading for an addition. Furthermore, there is presently no access out of the right side of the house. Accordingly, the most practical location for an addition to the home is between the garage and the house.

The Applicant testified her home is a wood and brick structure and the addition, if allowed, would have siding and roof shingles to match the existing home.

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The Applicants have contacted their neighbors and none expressed any opposition. The Applicants believe that the variance would improve the property. The house sits well off the road, and the addition would not create a visibility problem for anyone using Forge Hill Road, or for any of the neighbors.

Photographs submitted with the Staff Report, as Attachment 10, show an improved property set back from the road. The physical distance now existing between the house and the garage, is approximately 16 feet. The proposed addition would be 12 feet by 16 feet.

Next for the Department of Planning and Zoning testified Anthony McClune. In the Department's opinion, according to Mr. McClune, the property is unique. The existing garage is located approximately 28 feet from the existing side lot line. The dwelling on the nearest adjoining property is about 100 feet away. No view of any neighbors would be impacted because of the addition. The adjoining property owner would not be able to see the addition.

The area within which the subject property is located contains both pre- and post-1977 lots. Pre-1977 lots only require a 20 foot side yard setback. The 40 foot side yard setback requirement was created in 1977. Accordingly, some lots have 20 foot side yard setback requirements, and some have 40 foot.

Mr. McClune testified that he does not believe the addition between the garage and the house would not be out of character within this area, which has various lot sizes and building types.

No testimony or evidence was presented in opposition.

APPLICABLE LAW

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

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(2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants are proposing to improve their property in a way that is no different than many other homes in the area or other areas of Harford County. They have, from all outward appearances, an attractive home in an area of mixed-lot sizes and homes. The Applicants' residence sits off Forge Hill Road, and is well separated from any adjoining home. The free-standing garage is located about 16 feet from the house. There is at present no covered walkway between the two. The garage is not in violation of any applicable setback, but if a covered addition were erected between the home and the garage, the garage would then be in violation. Interestingly enough, the Applicants would not require such a variance if the property were subject to the pre-1977 zoning regulations, which require only a 20 foot side yard setback. Many other properties in the area are subject only to the pre-1977 regulations.

It is accordingly found that the property is unique due to its' existence within an area of lots subject to both pre-1977 and post-1977 zoning code regulations concerning side yard setbacks. The difficulty presented to the Applicants is the inability to construct the addition proposed unless the variance were granted, a variance which would not be necessary for many of their neighbors. It is also found that the variance is the minimum necessary to grant the requested relief. There would furthermore be no adverse harm to the neighborhood if the variance, which will not be noticeable to any neighbor, is granted.

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CONCLUSION:

It is accordingly recommended that the requested variance be granted, subject to the condition that the Applicants obtain all necessary permits and inspections.

Date: November 24, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner